

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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PATRICIA SCOTT FLEMING, as
Administratrix of the Estate of Patrick Fleming,

Plaintiff,

-against-

THE CITY OF NEW YORK ET AL,

Defendants.
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JENNIFER E. WILLIS, United States Magistrate Judge:

The Court has reviewed Plaintiff's letter motion to compel Non-*Monell* discovery and Defendants' opposition thereto. Dkt. Nos. 215, 225. The Court will address each Request for Production at issue in turn.

As to Request 3, the Court denies Plaintiff's motion and finds that Defendants' production is sufficient. As to Request 8, Defendants shall continue to search for responsive documents. Plaintiff's request for documents related to Commissioner Ponte in connection with Request 8 is denied because the requested documents do not relate to the allegations involving Commissioner Ponte in the Second Amended Complaint. The Court denies Plaintiff's motion regarding Request 2, which seeks documents related to material that Defendants inadvertently produced. Per the parties' Confidentiality Stipulation and Protective Order (Dkt. No. 187), Defendants did not waive any objection to such documents. Therefore, Plaintiff is ordered to destroy any copies of the inadvertently-produced documents as well as any notes of such documents. Plaintiff may not rely upon material of which she was not properly

ORDER

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in possession. The Court denies Plaintiff's motion as to Request 11 as overbroad because it seeks documents irrelevant to Plaintiff's claims.


The Court denies Plaintiff's motion as to Request 4 as moot because Defendants state no such documents exist and as to Requests 6, 16, and 20 because Defendants state that they have already produced responsive documents. As to Requests 8-10, 12, and 14, the Court cannot determine from Defendants' response what exactly Defendants have produced. To the extent Plaintiff's requested videos have not been produced, Plaintiff's motion is granted and Defendants are ordered to make a good faith effort to locate and produce them. The Court notes that Defendants did not include a written objection in their opposition to Plaintiff's letter motion regarding Request 13. Defendants are ordered to make a good faith effort to locate the requested video and produce it as well.

As to Request 17, the Court denies Plaintiff's motion in part because Plaintiff seeks irrelevant information by requesting all confidential information relating to the background of the officers involved in the alleged use of force incident on August 16, 2015 redacted from the Closing Report.. Additionally, Plaintiff's argument that such information could demonstrate an incentive to lie is speculative. Defendants shall produce a revised copy of the officers' background information to reflect information relating to discipline of the defendant officers concerning false statements, if any. Lastly, the Court denies Plaintiff's motion as to Request 21 as moot because Defendants have sufficiently responded by producing Captain Blake's transfer request.

The Clerk of Court is respectfully directed to close docket entry 215.

SO ORDERED.

DATED: New York, New York
August 11, 2022


JENNIFER E. WILLIS
United States Magistrate Judge